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The Honorable Chairman and Members of
the Hawaii Public Utilities Commission
Kekuanaoa Building
465 South King Street, 1st Floor
Honolulu, Hawaii 96813

Dear Commissioners:

RE: Act 95 Workshops – November 22, 23, 2004 – Initial Concept Paper

We apologize for not submitting our comments as requested on November 15, 2004. Due to other work commitments we were unable to meet this deadline and respectfully request consideration of our comments at this late filing. The Consumer Advocate notes the Commission's efforts to address the matters set forth in Act 95. In its Initial Concept Paper identifies numerous issues and topics that will require a great deal of research to provide comprehensive comments for the Commission's consideration. In addition, the specific information that must be considered is not available in the general discussion offered in the Initial Concept Paper. Furthermore, there may already have been discussion and consideration of certain matters in previous docketed matters before the Commission (e.g., performance-based ratemaking ("PBR") and cost of service modeling) as will be discussed below. Given the breadth and depth of the issues raised by the Initial Concept Paper and the existing workload of the office, the Consumer Advocate is unable to provide a detailed discussion on each point, in particular, what has been done in other jurisdictions that is successful. The Division hopes that the following discussion will be useful in preparation for the workshop to be held next week.

The Commission asked for comments on the following:

- paragraph 21—the status and prospects of regulation under RPS in Hawaii and elsewhere; the various alternative for renewable energy resources in Hawaii, the viability of renewable energy investments; locational cost of renewable energy in Hawaii; and successful RPS schemes and electric utility rate design

- paragraph 29—The impact of regulation on the behavior of utilities; status and prospects of regulation under PBR in Hawaii and elsewhere; alternative regulatory regimes available; regulation and power sector restructuring in Hawaii; and successful PBR regimes and electric utility rate design
- paragraph 40—the simulation models; objective of baseline simulation; the choice of base year; design of inputs and congruence between simulation outputs and market realities.
- paragraph 46—the objective of status quo simulations; the choice of study period; design of inputs; candidate projects for renewable investments; and forecast rate designs under the continuation of cost of service regulation
- paragraph—53—Objective of alternative scenarios simulations; the choice of study period; design of inputs; candidate incentive or PBR regimes; forecast rate designs under incentive or PBR regimes; and the nature, scope, and duration of penalties, if needed, for future non-compliance with the RPS.
- paragraph 58—status quo simulations and electric utility rate design; alternative scenarios simulations and electric utility rate design; current and best practices of RPS schemes and PBR regimes and electric utility rate design; candidate electric utility rate designs; and the nature, scope, and duration of penalties, if needed, for future non-compliance with the RPS.

The Consumer Advocate contends that the above topics can be grouped into two general categories. First and foremost, the intent of Act 95 is understood to prioritize planning for the installation of renewable energy on the islands in a manner that represents the lowest reasonable cost option consistent with governmental policies. Second, it is recognized that cost of service and rate design matters address the incentives for achieving the objectives/goals of Act 95.

Planning for the installation of renewable energy on the islands in a manner that represents the lowest reasonable cost option consistent with governmental policies.

The specifics of how to address each of the above two topical areas need to be considered in order to provide meaningful comment on the points listed in the above paragraphs. As a general observation, the Commission should recognize that modeling of utility specific information must be done to properly identify the appropriate actions that will provide the best incentives and penalties for the specific utility. While it may not have been intended, the Initial Concept Paper appears to suggest that the Commission hopes to develop a single generic plan that will be used by each electric utility in Hawaii. The Consumer Advocate contends that it is not reasonable to develop

a state-wide, "one size fits all" plan since the electric utility systems serving customers on each of the Hawaiian islands are not interconnected and are unique systems. There may be the need to provide incentives for the installation of different types of resources or behaviors, depending on the facts and circumstances pertaining to each utility. Any decisions pertaining to each utility should only be made after consideration of utility specific information, and should be tailored to the specific needs of the utility, its customers and ownership structure (i.e., investor owned versus cooperative). These decisions should consider, for example, the costs of operating each island system, which differ not only among utilities, but among the islands served by a utility (e.g., Maui Electric Company, Ltd. which serves the islands of Maui, Lanai and Molokai), the generation situation of each island, the space and resource availability of each island to install renewable energy facilities, the loads characteristics of the customers on each island, the governmental regulations, etc.

Furthermore, the Consumer Advocate contends that the Commission already has in place mechanisms that will allow the utilities, regulators, and interested stakeholders an opportunity to address the appropriate actions which can be taken to comply with the requirements set forth in Act 95. For example, the Commission has established the Integrated Resource Planning ("IRP") process. The IRP process requires each utility to develop long-range 20-year plans for meeting the energy needs of its customers in a manner that meets government regulations and is the lowest reasonable cost option. It should be recognized that the IRP is a on-going effort. Efforts to develop an IRP should not be undertaken only in the year preceding the submission to the Commission. Rather, discussions and analysis should be continuing to address the annual updates to the current plan as well as the development of the next plan for submission to the Commission. It is the Consumer Advocate's opinion that while it has not been perceived as such, the IRP process is an ideal forum to address how each electric utility can meet the RPS requirements set forth in Act 95. With clear and firm guidance by the Commission, the IRP process can be used to help guide the actions of the electric utility serving each island in a manner that is consistent with governmental policies and objectives such as reducing the dependence on fossil fuel, while maintaining reliable service at a reasonable cost to consumers.

It should be recognized that in developing the IRP, each utility forecasts its customers' load requirements over the 20-year period. The utility then models its generating and T&D system to identify the resource needs that may be necessary to meet the forecasted loads in a manner that is deemed to represent the lowest reasonable cost option. The resources could be supply-side such as new generating resources, or demand-side programs. The utilities then evaluate through modeling the impacts the various alternatives under consideration have on the existing resources, and identify the costs associated with the options under consideration to develop a 20-year IRP. Because the plans are long-term, however, it is difficult to predict with any degree of certainty what the future will hold. As a result, the Commission's

framework allowed for immediate focus on a 5-year action plan, which is updated annually depending on the realization of the forecasted sales which served as a base for the 5-year action plan. The utilities are also required to submit for Commission review and approval, a new IRP every three years. Thus, the new IRP should be submitted in the third year of the 5-year action plan. This process allows for consideration of new technology that may become available after the current IRP is developed and approved by the Commission in the development of the next IRP.

The Commission recently ordered electric utilities to re-establish efforts to develop their next Integrated Resource Plans ("IRP") for the third cycle. As a result the utilities are currently modeling specific information pertinent to each utility to develop the IRP for that utility. It is not clear how or whether the Commission envisions the efforts to be undertaken in the workshops to be coordinated or integrated in the current efforts of the utilities to develop their 3rd IRP.

Cost of service and Rate design matters.

The appropriate rate design, incentives and penalties are generally best developed in conjunction with the review conducted in a rate proceeding. The reason is that the specific information to support the rate proposals is based on the information supporting the overall revenue requirements for a given utility. In developing the revenue requirements critical components are the cost of generation and delivery of the electric service. Electric utilities commonly model their available generation to determine these costs (e.g., fuel, purchased power, and production). If rate design and cost of service analysis are performed using outdated inputs that may no longer reflect current conditions, the analytical results will not be reasonable and the regulatory efforts to address this matter may not be productive.

Furthermore, while some may argue that traditional rate of return regulation may be viewed as not providing incentives or penalties to match utility performance, the Consumer Advocate contends that this view is not entirely correct. For example, there can be penalties associated with performance that does not meet expectation such as reducing a rate of return and/or denying cost recovery of costs incurred to remedy certain situations associated with the concern. There can also be incentives in the sense that the utility is allowed to retain profits that exceed the authorized rate of return until the rates are reset, if necessary. Incentives can also be given in the form of additional basis points too the rate of return upon a Commission determination that certain goals or objectives have been met.


These forms of regulatory actions, however, are often taken "after" the actions/concerns arise. On the other hand, forms of regulation such as price caps or performance-based regulation might be perceived to better time the reward and penalty to the performance of the utility. These forms of regulation start, however, with a

determination of the revenue requirement based upon a given rate of return. In addition, these forms of regulation require constant monitoring by the regulator. Before consideration is given to moving towards an "alternative form of regulation," the Commission must carefully consider the resource requirements that will be needed to perform the appropriate monitoring in the periods between rate filings.

Lastly, the Consumer Advocate notes that Hawaiian Electric Company, Inc. has recently filed an application seeking rate relief. It is not clear how or whether the Commission envisions the efforts to be undertaken in the workshops to be coordinated or integrated in the review to be conducted of that matter.

In closing, the above are offered for consideration to the Commission's request for comments. The Consumer Advocate is unable to provide comments that address the specific points set forth in the cited paragraphs simply because the information that must be considered to provide the comments are not currently available. The Consumer Advocate contends, however, that the Commission may already have in place processes and procedures that allow it to fulfill the statutory requirements of Act 95 without the need for additional statutory or administrative rule changes.

Sincerely yours,

A handwritten signature in cursive script, reading "Cheryl S. Kikuta".

Cheryl S. Kikuta
Utilities Administrator